

House Amendment 1619

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1 1 Amend House File 882 as follows:
1 2 #1. Page 40, by inserting after line 15, the
1 3 following:
1 4 <DIVISION ____
1 5 RENEWABLE ENERGY TAX CREDIT
1 6 Sec. _____. Section 422.11J, Code 2005, is amended
1 7 to read as follows:
1 8 422.11J ~~WIND ENERGY PRODUCTION TAX CREDIT CREDITS~~
1 9 FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY.
1 10 The taxes imposed under this division, less the
1 11 credits allowed under sections 422.12 and 422.12B,
1 12 shall be reduced by ~~a wind energy production tax~~
1 13 ~~credit credits for wind energy production~~ allowed
1 14 under chapter 476B and for renewable energy allowed
1 15 under chapter 476C.
1 16 Sec. _____. Section 422.33, subsection 16, Code
1 17 2005, is amended to read as follows:
1 18 16. The taxes imposed under this division shall be
1 19 reduced by ~~a wind energy production tax credit credits~~
1 20 for wind energy production allowed under chapter 476B
1 21 and for renewable energy allowed under chapter 476C.
1 22 Sec. _____. Section 422.60, subsection 8, Code 2005,
1 23 is amended to read as follows:
1 24 8. The taxes imposed under this division shall be
1 25 reduced by ~~a wind energy production tax credit credits~~
1 26 for wind energy production allowed under chapter 476B
1 27 and for renewable energy allowed under chapter 476C.
1 28 Sec. _____. Section 423.4, Code 2005, is amended by
1 29 adding the following new subsection:
1 30 NEW SUBSECTION. 4. A person in possession of a
1 31 renewable energy tax credit certificate issued
1 32 pursuant to chapter 476C may apply to the director for
1 33 refund of the amount of sales or use tax imposed and
1 34 paid upon purchases made by the applicant.
1 35 a. The refunds may be obtained only in the
1 36 following manner and under the following conditions:
1 37 (1) On forms furnished by the department and filed
1 38 by January 31 after the end of the calendar year in
1 39 which the tax credit certificate is to be applied, the
1 40 applicant shall report to the department the total
1 41 amount of sales and use tax paid during the reporting
1 42 period on purchases made by the applicant.
1 43 (2) The applicant shall separately list the
1 44 amounts of sales and use tax paid during the reporting
1 45 period.
1 46 (3) If required by the department, the applicant
1 47 shall prove that the person making the sales has
1 48 included the amount thereof in the computation of the
1 49 sales price of such person and that such person has
1 50 paid the tax levied by this subchapter or subchapter
2 1 III, based upon such computation of the sales price.
2 2 (4) The applicant shall provide the tax credit
2 3 certificates issued pursuant to chapter 476C to the
2 4 department with the forms required by this paragraph
2 5 "a".
2 6 b. If satisfied that the foregoing conditions and
2 7 requirements have been complied with, the director
2 8 shall refund the amount claimed by the applicant for
2 9 an amount not greater than the amount of tax credits
2 10 issued in tax credit certificates pursuant to chapter
2 11 476C.
2 12 Sec. _____. Section 432.12E, Code 2005, is amended
2 13 to read as follows:
2 14 432.12E ~~WIND ENERGY PRODUCTION TAX CREDIT CREDITS~~
2 15 FOR WIND ENERGY PRODUCTION AND RENEWABLE ENERGY.
2 16 The taxes imposed under this chapter shall be
2 17 reduced by ~~a wind energy production tax credit credits~~
2 18 for wind energy production allowed under chapter 476B
2 19 and for renewable energy allowed under chapter 476C.
2 20 Sec. _____. NEW SECTION. 437A.17B REIMBURSEMENT
2 21 FOR RENEWABLE ENERGY.
2 22 A person in possession of a renewable energy tax
2 23 credit certificate issued pursuant to chapter 476C may
2 24 apply to the director for a reimbursement of the

2 25 amount of taxes imposed and paid by the person
2 26 pursuant to this chapter in an amount not more than
2 27 the person received in renewable energy tax credit
2 28 certificates pursuant to chapter 476C. To obtain the
2 29 reimbursement, the person shall attach to the return
2 30 required under section 437A.8 the renewable energy tax
2 31 credit certificates issued to the person pursuant to
2 32 chapter 476C, and provide any other information the
2 33 director may require. The director shall direct a
2 34 warrant to be issued to the person for an amount equal
2 35 to the tax imposed and paid by the person pursuant to
2 36 this chapter but for not more than the amount of the
2 37 renewable energy tax credit certificates attached to
2 38 the return.

2 39 Sec. ____ NEW SECTION. 476C.1 DEFINITIONS.

2 40 For purposes of this chapter, unless the context
2 41 otherwise requires:

2 42 1. "Anaerobic digester system" means a system of
2 43 components that processes plant or animal materials
2 44 based on the absence of oxygen and produces methane or
2 45 other biogas used to generate electricity, hydrogen
2 46 fuel, or heat for a commercial purpose.

2 47 2. "Biogas recovery facility" means an anaerobic
2 48 digester system that is located in this state.

2 49 3. "Biomass conversion facility" means a facility
2 50 in this state that converts plant-derived organic
3 1 matter including, but not limited to, agricultural
3 2 food and feed crops, crop wastes and residues, wood
3 3 wastes and residues, or aquatic plants to generate
3 4 electricity, hydrogen fuel, or heat for a commercial
3 5 purpose.

3 6 4. "Board" means the utilities board within the
3 7 utilities division of the department of commerce.

3 8 5. "Department" means the department of revenue.

3 9 6. "Eligible renewable energy facility" means a
3 10 wind energy conversion facility, a biogas recovery
3 11 facility, a biomass conversion facility, a methane gas
3 12 recovery facility, or a solar energy conversion
3 13 facility that meets all of the following requirements:

3 14 a. Is located in this state.

3 15 b. Is at least fifty-one percent owned by one or
3 16 more of any combination of the following:

3 17 (1) A resident of this state.

3 18 (2) Any of the following as defined in section

3 19 9H.1:

3 20 (a) An authorized farm corporation.

3 21 (b) An authorized limited liability company.

3 22 (c) An authorized trust.

3 23 (d) A family farm corporation.

3 24 (e) A family farm limited liability company.

3 25 (f) A family trust.

3 26 (g) A revocable trust.

3 27 (h) A testamentary trust.

3 28 (3) A small business as defined in section 15.102.

3 29 (4) An electric cooperative association organized
3 30 pursuant to chapter 499 that sells electricity to end
3 31 users located in this state.

3 32 (5) An electric cooperative association that has
3 33 one or more members organized pursuant to chapter 499.

3 34 (6) A cooperative corporation organized pursuant
3 35 to chapter 497 or a limited liability corporation
3 36 organized pursuant to chapter 490A whose shares and
3 37 membership are held by an entity that is not
3 38 prohibited from owning agricultural land under chapter
3 39 9H.

3 40 (7) A school district located in this state.

3 41 c. Has at least one owner that meets the
3 42 requirements of paragraph "b" for each two and one=
3 43 half megawatts of nameplate generating capacity or the
3 44 energy production capacity equivalent for hydrogen
3 45 fuel or heat for a commercial purpose of the otherwise
3 46 eligible renewable energy facility.

3 47 d. Was initially placed into service on or after
3 48 July 1, 2005, and before January 1, 2011.

3 49 7. "Energy production capacity equivalent" means
3 50 the amount of energy in a standard cubic foot of
4 1 hydrogen gas or the number of British thermal units
4 2 that are equal to the energy in a kilowatt-hour of
4 3 electricity. For the purposes of this chapter, one
4 4 kilowatt-hour shall be deemed equivalent to three
4 5 thousand three hundred thirty-three British thermal

4 6 units of heat or ten and forty=five one hundredths of
4 7 standard cubic feet of hydrogen gas.

4 8 8. "Heat for a commercial purpose" means the heat
4 9 in British thermal unit equivalents from methane or
4 10 other biogas produced in this state sold to a
4 11 purchaser of renewable energy for use for a commercial
4 12 purpose.

4 13 9. "Hydrogen fuel" means hydrogen produced in this
4 14 state from a renewable source that is used in a fuel
4 15 cell or hydrogen-powered internal combustion engine.

4 16 10. "Methane gas recovery facility" means a
4 17 facility in this state which is used in connection
4 18 with a sanitary landfill or which uses wastes that
4 19 would otherwise be deposited in a sanitary landfill,
4 20 that collects methane gas or other gases and converts
4 21 the gas into energy to generate electricity, hydrogen
4 22 fuel, or heat for a commercial purpose.

4 23 11. "Producer of renewable energy" means a person
4 24 who owns an eligible renewable energy facility.

4 25 12. "Purchaser of renewable energy" means a person
4 26 who buys electric energy, hydrogen fuel, methane gas
4 27 or other biogas used to generate electricity, or heat
4 28 for a commercial purpose from an eligible renewable
4 29 energy facility.

4 30 13. "Solar energy conversion facility" means a
4 31 solar energy facility in this state that collects and
4 32 converts incident solar radiation into energy to
4 33 generate electricity.

4 34 14. "Wind energy conversion facility" means a wind
4 35 energy conversion system in this state that collects
4 36 and converts wind into energy to generate electricity.

4 37 Sec. ____ NEW SECTION. 476C.2 TAX CREDIT AMOUNT
4 38 == LIMITATIONS.

4 39 1. A producer or purchaser of renewable energy may
4 40 receive renewable energy tax credits under this
4 41 chapter in an amount equal to one and one-half cents
4 42 per kilowatt-hour of electricity, or four dollars and
4 43 fifty cents per million British thermal units of heat
4 44 for a commercial purpose, or four dollars and fifty
4 45 cents per million British thermal units of methane gas
4 46 or other biogas used to generate electricity, or one
4 47 dollar and forty-four cents per one thousand standard
4 48 cubic feet of hydrogen fuel generated by and purchased
4 49 from an eligible renewable energy facility.

4 50 2. The renewable energy tax credit shall not be
5 1 allowed for any kilowatt-hour of electricity, British
5 2 thermal unit of heat for a commercial purpose, British
5 3 thermal unit of methane gas or other biogas used to
5 4 generate electricity, or standard cubic foot of
5 5 hydrogen fuel that is purchased from an eligible
5 6 renewable energy facility by a related person. For
5 7 purposes of this subsection, persons shall be treated
5 8 as related to each other if either person owns an
5 9 eighty percent or more equity interest in the other
5 10 person.

5 11 Sec. ____ NEW SECTION. 476C.3 DETERMINATION OF
5 12 ELIGIBILITY.

5 13 1. A producer or purchaser of renewable energy may
5 14 apply to the board for a written determination
5 15 regarding whether a facility is an eligible renewable
5 16 energy facility by submitting to the board a written
5 17 application containing all of the following:

5 18 a. Information regarding the ownership of the
5 19 facility including the percentage of equity interest
5 20 held by each owner.

5 21 b. The nameplate generating capacity of the
5 22 facility or energy production capacity equivalent.

5 23 c. Information regarding the facility's initial
5 24 placement in service.

5 25 d. Information regarding the type of facility and
5 26 what type of renewable energy the facility will
5 27 produce.

5 28 e. A copy of the power purchase agreement or other
5 29 agreement to purchase electricity, hydrogen fuel,
5 30 methane or other biogas, or heat for a commercial
5 31 purpose which shall designate either the producer or
5 32 purchaser of renewable energy as eligible to apply for
5 33 the renewable energy tax credit.

5 34 f. Any other information the board may require.

5 35 2. The board shall review the application and
5 36 supporting information and shall make a preliminary

5 37 determination regarding whether the facility is an
5 38 eligible renewable energy facility. The board shall
5 39 notify the applicant of the approval or denial of the
5 40 application within thirty days of receipt of the
5 41 application and information required. If the board
5 42 fails to notify the applicant of the approval or
5 43 denial within thirty days, the application shall be
5 44 deemed denied. An applicant who receives a
5 45 determination denying an application may file an
5 46 appeal with the board within thirty days from the date
5 47 of the denial pursuant to the provisions of chapter
5 48 17A. In the absence of a timely appeal, the
5 49 preliminary determination shall be final. If the
5 50 application is incomplete, the board may grant an
6 1 extension of time for the provision of additional
6 2 information.

6 3 3. A facility that is not operational within
6 4 eighteen months after issuance of an approval for the
6 5 facility by the board shall cease to be an eligible
6 6 renewable energy facility. A facility that is granted
6 7 and thereafter loses approval may reapply to the board
6 8 for a new determination.

6 9 4. The maximum amount of nameplate generating
6 10 capacity of all wind energy conversion facilities the
6 11 board may find eligible under this chapter shall not
6 12 exceed ninety megawatts of nameplate generating
6 13 capacity. The maximum amount of energy production
6 14 capacity equivalent of all other facilities the board
6 15 may find eligible under this chapter shall not exceed
6 16 a combined output of ten megawatts of nameplate
6 17 generating capacity.

6 18 5. An owner meeting the requirements of section
6 19 476C.1, subsection 6, paragraph "b" shall not be an
6 20 owner of more than two eligible renewable energy
6 21 facilities.

6 22 Sec. _____. NEW SECTION. 476C.4 TAX CREDIT
6 23 CERTIFICATE PROCEDURE.

6 24 1. A producer or purchaser of renewable energy may
6 25 apply to the board for the renewable energy tax credit
6 26 by submitting to the board all of the following:

6 27 a. A completed application in a form prescribed by
6 28 the board.

6 29 b. A copy of the determination granting approval
6 30 of the facility as an eligible renewable energy
6 31 facility by the board.

6 32 c. A copy of a signed power purchase agreement or
6 33 other agreement to purchase electricity, hydrogen
6 34 fuel, methane or other biogas, or heat for a
6 35 commercial purpose from an eligible renewable energy
6 36 facility which shall designate either the producer or
6 37 purchaser of renewable energy as eligible to apply for
6 38 the renewable energy tax credit.

6 39 d. Sufficient documentation that the electricity,
6 40 heat for a commercial purpose, methane gas or other
6 41 biogas, or hydrogen fuel has been generated by the
6 42 eligible renewable energy facility and sold to the
6 43 purchaser of renewable energy.

6 44 e. Any other information the board deems
6 45 necessary.

6 46 2. The board shall notify the department of the
6 47 amount of kilowatt-hours, British thermal units of
6 48 heat for a commercial purpose, British thermal units
6 49 of methane gas or other biogas used to generate
6 50 electricity, or standard cubic feet of hydrogen fuel
7 1 generated and purchased from an eligible renewable
7 2 energy facility. The department shall calculate the
7 3 amount of the tax credit for which the applicant is
7 4 eligible and shall issue the tax credit certificate
7 5 for that amount or notify the applicant in writing of
7 6 its refusal to do so. An applicant whose application
7 7 is denied may file an appeal with the department
7 8 within sixty days from the date of the denial pursuant
7 9 to the provisions of chapter 17A.

7 10 3. Each tax credit certificate shall contain the
7 11 person's name, address, and tax identification number,
7 12 the amount of tax credits, the first taxable year the
7 13 certificate may be used, the type of tax to which the
7 14 tax credits shall be applied, and any other
7 15 information required by the department. The tax
7 16 credit certificate shall only list one type of tax to
7 17 which the amount of the tax credit may be applied.

7 18 Once issued by the department, the tax credit
7 19 certificate shall not be terminated or rescinded.
7 20 4. If the tax credit application is filed by a
7 21 partnership, limited liability company, S corporation,
7 22 estate, trust, or other reporting entity all of the
7 23 income of which is taxed directly to its equity
7 24 holders or beneficiaries, for the taxes imposed under
7 25 chapter 422, division II or III, the tax credit
7 26 certificate shall be issued directly to equity holders
7 27 or beneficiaries of the applicant in proportion to
7 28 their pro rata share of the income of such entity.
7 29 The applicant shall, in the application made under
7 30 this section, identify its equity holders or
7 31 beneficiaries, and the percentage of such entity's
7 32 income that is allocable to each equity holder or
7 33 beneficiary. If the tax credit application is filed
7 34 by a partnership, limited liability company, S
7 35 corporation, estate, trust, or other reporting entity,
7 36 all of whose income is taxed directly to its equity
7 37 holders or beneficiaries for the taxes imposed under
7 38 chapter 422, division V, or under chapter 423, 432, or
7 39 437A, the tax credit certificate shall be issued
7 40 directly to the partnership, limited liability
7 41 company, S corporation, estate, trust, or other
7 42 reporting entity.

7 43 5. The department shall not issue a tax credit
7 44 certificate if the facility approved by the board as
7 45 an eligible renewable energy facility is not
7 46 operational within eighteen months after the approval
7 47 is issued.

7 48 6. The department shall not issue a tax credit
7 49 certificate to any person who has received a tax
7 50 credit pursuant to chapter 476B.

8 1 7. Once a tax credit certificate is issued
8 2 pursuant to this section, the tax credit may only be
8 3 claimed against the type of tax reflected on the
8 4 certificate.

8 5 Sec. _____. NEW SECTION. 476C.5 CERTIFICATE
8 6 ISSUANCE PERIOD.

8 7 A producer or purchaser of renewable energy may
8 8 receive renewable energy tax credit certificates for a
8 9 ten-year period for each eligible renewable energy
8 10 facility under this chapter. The ten-year period for
8 11 issuance of the tax credit certificates begins with
8 12 the date the purchaser of renewable energy first
8 13 purchases electricity, hydrogen fuel, methane gas or
8 14 other biogas used to generate electricity, or heat for
8 15 commercial purposes from the eligible renewable energy
8 16 facility for which a tax credit is issued under this
8 17 chapter. Renewable energy tax credit certificates
8 18 shall not be issued for renewable energy purchased
8 19 after December 31, 2020.

8 20 Sec. _____. NEW SECTION. 476C.6 TRANSFERABILITY
8 21 AND USE OF TAX CREDIT CERTIFICATES == REGISTRATION.

8 22 1. Renewable energy tax credit certificates issued
8 23 under this chapter may be transferred to any person.
8 24 A tax credit certificate shall only be transferred
8 25 once. However, for purposes of this transfer
8 26 provision, a decision between a producer and purchaser
8 27 of renewable energy regarding who claims the tax
8 28 credit issued pursuant to this chapter shall not be
8 29 considered a transfer and must be set forth in the
8 30 application for the tax credit pursuant to section
8 31 476C.4. Within thirty days of transfer, the
8 32 transferee must submit the transferred tax credit
8 33 certificate to the department along with a statement
8 34 containing the transferee's name, tax identification
8 35 number, and address, and the denomination that each
8 36 new certificate is to carry and any other information
8 37 required by the department. Within thirty days of
8 38 receiving the transferred tax credit certificate and
8 39 the transferee's statement, the department shall issue
8 40 one or more replacement tax credit certificates to the
8 41 transferee. Each replacement tax credit certificate
8 42 must contain the information required under section
8 43 476C.4, subsection 3, and must have the same effective
8 44 taxable year and the same expiration date that
8 45 appeared in the transferred tax credit certificate.
8 46 Tax credit certificate amounts of less than the
8 47 minimum amount established by rule shall not be
8 48 transferable. A tax credit shall not be claimed by a

8 49 transferee under this chapter until a replacement tax
8 50 credit certificate identifying the transferee as the
9 1 proper holder has been issued. The replacement tax
9 2 credit certificate may reflect a different type of tax
9 3 than the type of tax noted on the original tax credit
9 4 certificate.

9 5 The transferee may use the amount of the tax credit
9 6 transferred against taxes imposed under chapter 422,
9 7 divisions II, III, and V, and chapter 432 for any tax
9 8 year the original transferor could have claimed the
9 9 tax credit. The transferee may claim a refund under
9 10 chapter 423 or 437A for any tax year within the time
9 11 period set forth in section 423.47 or 437A.14 for
9 12 which the original transferor could have claimed the
9 13 refund. Any consideration received for the transfer
9 14 of the tax credit shall not be included as income
9 15 under chapter 422, divisions II, III, and V. Any
9 16 consideration paid for the transfer of the tax credit
9 17 shall not be deducted from income under chapter 422,
9 18 divisions II, III, and V.

9 19 2. To claim a renewable energy tax credit under
9 20 this chapter, a taxpayer must attach one or more tax
9 21 credit certificates to the taxpayer's tax return, or
9 22 if used against taxes imposed under chapter 423, the
9 23 taxpayer shall comply with section 423.4, or if used
9 24 against taxes imposed under chapter 437A, the taxpayer
9 25 shall comply with section 437A.17B, subsection 4. A
9 26 tax credit certificate shall not be used or attached
9 27 to a return filed for a taxable year beginning prior
9 28 to July 1, 2006. The tax credit certificate or
9 29 certificates attached to the taxpayer's tax return
9 30 shall be issued in the taxpayer's name, expire on or
9 31 after the last day of the taxable year for which the
9 32 taxpayer is claiming the tax credit, and show a tax
9 33 credit amount equal to or greater than the tax credit
9 34 claimed on the taxpayer's tax return. Any tax credit
9 35 in excess of the taxpayer's tax liability for the
9 36 taxable year may be credited to the taxpayer's tax
9 37 liability for the following seven tax years or until
9 38 the credit is depleted, whichever is earlier. If the
9 39 tax credit is applied against the taxes imposed under
9 40 chapter 423 or 437A, any credit in excess of the
9 41 taxpayer's tax liability is carried over and can be
9 42 filed with the refund claim for the following seven
9 43 tax years or until depleted, whichever is earlier.
9 44 However, the certificate shall not be used to reduce
9 45 tax liability for a tax period ending after the
9 46 expiration date of the certificate.

9 47 3. The department shall develop a system for the
9 48 registration of the renewable energy tax credit
9 49 certificates issued or transferred under this chapter
9 50 and a system that permits verification that any tax
10 1 credit claimed on a tax return is valid and that
10 2 transfers of the tax credit certificates are made in
10 3 accordance with the requirements of this chapter. The
10 4 tax credit certificates issued under this chapter
10 5 shall not be classified as a security pursuant to
10 6 chapter 502.

10 7 Sec. _____. NEW SECTION. 476C.7 RULES.

10 8 The department and the board may adopt rules
10 9 pursuant to chapter 17A for the administration and
10 10 enforcement of this chapter.

10 11 Sec. _____. EFFECTIVE DATE. This division of this
10 12 Act, being deemed of immediate importance, takes
10 13 effect upon enactment.>

10 14 #2. Title page, line 2, by inserting after the
10 15 word <fees> the following: <and tax credits>.

10 16 #3. By renumbering as necessary.

10 17

10 18

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10 20 _____
10 20 SHOULTZ of Black Hawk

10 21 HF 882.312 81

10 22 kk/cf/4849